

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JASON SIGERS,

Plaintiff,

v.

Case No. 08-13298
Honorable Patrick J. Duggan

C/O BAILEY, P.A. UNKNOWN MEDICAL
STAFF AT PINE RIVER FACILITY, DR.
MISHRA, P.A. JUDY DAOUST, DR.
TIEN, and CORRECTIONAL MEDICAL
SERVICES, INC.,

Defendants.

**OPINION AND ORDER SUA SPONTE DISMISSING
ACTION WITH PREJUDICE**

At a session of said Court, held in the U.S.
District Courthouse, Eastern District
of Michigan, on August 3, 2010.

PRESENT: THE HONORABLE PATRICK J. DUGGAN
U.S. DISTRICT COURT JUDGE

On July 21, 2008, Plaintiff filed this lawsuit pursuant to 42 U.S.C. § 1983, alleging that Defendants failed to protect him from an assault by other inmates and thereafter failed to provide him with adequate medical care.¹ This Court has assigned the lawsuit to Magistrate Judge Michael Hluchaniuk for all pretrial matters. Upon Magistrate Judge Hluchaniuk's recommendation, this Court dismissed Plaintiff's claims against Defendant

¹Although incarcerated as a Michigan Department of Corrections' prisoner when he filed this action, Plaintiff was paroled on October 6, 2009. Plaintiff has not provided the Court with an updated address since he was paroled.

Judy Daoust, P.A. and Correctional Medical Services, Inc. on January 19, 2010. Pending before the Court is Magistrate Judge Hluchaniuk's report and recommendation (R&R), dated June 9, 2010, recommending that this Court now *sua sponte* dismiss Plaintiff's claims against the remaining Defendants with prejudice based on Plaintiff's failure to prosecute the action.

In the R&R, Magistrate Judge Hluchaniuk indicates that Defendants Dr. Tien and C/O Bailey filed motions for summary judgment and/or to dismiss on October 7 and 13, 2009, respectively. (*See* Docs. 93, 94.) The magistrate judge issued an amended scheduling order requiring Plaintiff to respond to the motions by January 11, 2010. (Doc. 104.) In that order, Magistrate Judge Hluchaniuk warned that "failure to file a response may result in sanctions, including granting all or part of the relief requested by the moving party." (*Id.* at 2.) Plaintiff has not responded to the motions, nor has he moved for more time to respond. In fact, Plaintiff has not filed anything in this matter since September 25, 2009.

On May 13, 2010, Magistrate Judge Hluchaniuk issued a show cause order requiring Plaintiff to show cause, by June 3, 2010, why this matter should not be dismissed with prejudice based on his failure to prosecute. (Doc. 110.) Magistrate Judge Hluchaniuk emphasized in the show cause order that "[f]ailure to timely or adequately respond to th[e] Order will result in a recommendation for dismissal of plaintiffs claims." (*Id.* at 2.) When Plaintiff thereafter did not take any action in this lawsuit, Magistrate Judge Hluchaniuk issued his R&R recommending that this Court dismiss the lawsuit with prejudice for failure to prosecute. (Doc. 112.)

At the conclusion of his R&R, Magistrate Judge Hluchaniuk advises the parties that they may file objections to the R&R within fourteen days of service. (*Id.* at 6.) He further advises that the “[f]ailure to file specific objections constitutes a waiver of any further right of appeal.” (*Id.*) Neither party has filed objections to the R&R.

Having reviewed the R&R, this Court concurs with Magistrate Judge Hluchaniuk that Plaintiff’s amended complaint should be dismissed for failure to prosecute.

Accordingly,

IT IS ORDERED, that the Court adopts Magistrate Judge Hluchaniuk’s R&R and **DISMISSES WITH PREJUDICE** Plaintiff’s amended complaint.

PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

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